



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

#### **Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) has determined that a request for a new shipper review (NSR) of the antidumping duty order on fresh garlic from the People's Republic of China (China) meets the statutory and regulatory requirements for initiation. The period of review (POR) for the NSR is November 1, 2021, through October 31, 2022.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Charles DeFilippo, AD/CVD Operations Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3797.

#### **SUPPLEMENTARY INFORMATION:**

##### Background

Commerce published the antidumping duty order on fresh garlic on November 16, 1994.<sup>1</sup> On November 30, 2022, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.214(c), Commerce received a timely NSR request from Jining Huahui International Co., Ltd. (Huahui).<sup>2</sup>

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<sup>1</sup> See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994).

<sup>2</sup> See Huahui's Letter, "Fresh Garlic from the People's Republic of China: Request for New Shipper Review," dated November 30, 2022 (NSR Request).

In its submission, Huahui certified that it is the exporter, but not the producer of the subject merchandise subject to this NSR request.<sup>3</sup> Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(ii)(A), Huahui and its producer certified that it did not export fresh garlic to the United States during the period of investigation (POI).<sup>4</sup> Additionally, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Huahui and its producer certified that, since the initiation of the investigation, it has not been affiliated with any producer or exporter that exported fresh garlic to the United States during the POI, including those not individually examined during the investigation.<sup>5</sup> As required by 19 CFR 351.214(b)(2)(iii)(B), Huahui and its producer also certified that its export activities are not controlled by the central government of China.<sup>6</sup>

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Huahui submitted documentation establishing the following: (1) the date on which it first shipped subject merchandise for export to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.<sup>7</sup>

Commerce conducted a query of U.S. Customs and Border Protection (CBP) data and confirmed that Huahui's subject merchandise entered the United States for consumption and that liquidation of such entries had been properly suspended for antidumping duties. The CBP data that Commerce examined are consistent with information provided by Huahui in its NSR request. In particular, the CBP data confirms the price and quantity reported by Huahui for the sales that forms the basis of its NSR request.<sup>8</sup>

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<sup>3</sup> *Id.* at Exhibits 1-2.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at Exhibit 4.

<sup>8</sup> *Id.*; *see also* Memorandum, "Fresh Garlic from the People's Republic of China: Initiation Checklist for Antidumping Duty New Shipper Review of Jining Huahui International Co., Ltd.," dated concurrently with this notice.

### Period of Review

In accordance with 19 CFR 351.214(g)(1)(i)(A), the POR for an NSR initiated in the month immediately following the anniversary month will be the twelve-month period immediately preceding the anniversary month. Therefore, the POR for this NSR is November 1, 2021, through October 30, 2022.

### Initiation of NSR

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and based on the information on the record, we find that Huahui's NSR request meets the threshold requirements for initiation of an NSR of its shipment(s) of fresh garlic to the United States.<sup>9</sup> However, if the information supplied by Huahui is later found to be incorrect or insufficient during the course of this NSR, Commerce may rescind the review or apply adverse facts available, pursuant to section 776 of the Act, as appropriate. Pursuant to 19 CFR 351.221(c)(1)(i), Commerce will publish the notice of initiation of an NSR no later than the last day of the month following the anniversary or semiannual anniversary month of the order. Commerce intends to issue the preliminary results of this review no later than 180 days from the date of initiation, and the final results of this review no later than 90 days after the date the preliminary results are issued.<sup>10</sup>

It is Commerce's practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate (*i.e.*, separate rate) provide evidence of *de jure* and *de facto* absence of government control over the company's export activities.<sup>11</sup> Accordingly, Commerce will issue questionnaires to Huahui requesting, *inter alia*, information regarding its export activities for the purpose of determining whether it is eligible for a separate rate. The review of the exporter will

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<sup>9</sup> See generally NSR Request.

<sup>10</sup> See section 751(a)(2)(B)(iii) of the Act.

<sup>11</sup> See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," dated April 15, 2005, available at <https://access.trade.gov/Resources/policy/bull05-1.pdf>.

proceed if the response provides sufficient indication that the exporter is not subject to either *de jure* or *de facto* government control with respect to its exports of fresh garlic.

We intend to conduct this NSR in accordance with section 751(a)(2)(B) of the Act.<sup>12</sup> Because Hauhui certified that it exported subject merchandise, the sale of which is the basis for its NSR request, Commerce will instruct CBP to continue to suspend liquidation of all entries of subject merchandise exported by Huahui. To assist in its analysis of the *bona fide* nature of Huahui's sale(s), upon initiation of this NSR, Commerce will require Huahui to submit, on an ongoing basis, complete transaction information concerning any sales of subject merchandise to the United States that were made subsequent to the POR.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306. This initiation notice is published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

**Dated:** December 28, 2022.

**James Maeder,**  
*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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<sup>12</sup> The Act was amended by the Trade Facilitation and Trade Enforcement Act of 2015 which removed from section 751(a)(2)(B) of the Act the provision directing Commerce to instruct CBP to allow an importer the option of posting a bond or security in lieu of a cash deposit during the pendency of an NSR.